

Mr. **SPEAKER**.—The Bill will be read clause by clause. There are no amendments. I will put all the clauses to the House. The question is :

“That Clauses 1, 2, the Title and the Preamble and part of the Bill.”

The motion was adopted.

Clauses 1, 2, the Title and the Preamble were added to the Bill.

Motion to pass

Sri T. **SUBRAMANYA**.—I beg to move :

“That the Mysore Legislature Salaries (Amendment) Bill, 1959, be passed.”

Mr. **SPEAKER**.—The question is :

“That the Mysore Legislature Salaries (Amendment) Bill, 1959, be passed.”

The motion was adopted.

DISCUSSION ON A MATTER OF PUBLIC IMPORTANCE ARISING OUT OF ANSWERS TO QUES- TIONS.

Question No. 352: Applicability of Communal G.O. to promotions within the non-Gazetted Cadre.

†Sri J. B. **MALLARADHYA** (Nanjangud).—Sir, at the fag end of this session, I am in a sense happy that this subject is coming up for discussion. I should have been very disappointed if this had not been taken up in this session because it raises a fundamental issue. At the outset I want to assure my Brahmin friends in this Legislature that it is not with any communal motive that I am putting forward this subject for discussion on the floor of this House. A very curious incident occurred after I left the House the other day after question hour. One Brahmin friend for whom I have the greatest respect said “Why has communalism taken possession of you? Why do you want have communalism in service?” I said that I

will answer him on the floor of the House. It is unfortunate that he is not here now. I wish to make it very clear that I am one of those who are prepared for the removal of communal G.O., whether it is a question of admission into services or admission into colleges. But such a thing is impossible so long as the Government recognises the need for communal G. O. and so long as you fix the proportion of candidates belonging to different communities for admission. My point is, has the Government taken action to implement that order both in letter and in spirit? My objection is there. I shall cut short my speech and bring to the notice of the Hon'ble Members of this House a few fundamental questions involved in this issue.

Sir, if the Hon'ble House will kindly see the Report of the Public Service Commission for the year 1955-56 which is the latest made available to us, for some reason or other, in spite of the communal G. O. functioning in the various Departments of the State, if you compare the number of Brahmin candidates who were employed with the candidates belonging to any other community, invariably almost 95 per cent of them I may say in any office belong to Brahmin community. My point is, take any office. It is the single largest community in the State which has a preponderant representation in every office of the State. I am asking with great humility : is this communal G.O. functioning in the State? Does it not open the eyes of those in power, these who are leaders of public opinion to see that the order is functioning satisfactorily? Sir, to support my case I have collected a few facts. I am quoting some figures from some offices where it is very bad. Take the Department of Technical Education ; for a period of nearly five years, the kind of promotions that have been made in the non-Gazetted cadre are distinctly against the interests of the backward communities. I do not wish to give names ; whether it is the Automobile Engineering Section, the Mechanical Section, the Civil Engineering Section, the Tailoring Section, the

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Sound Engineering Section, or any other section for that matter, you will see the same state of affairs. Take the Secretariat itself; if you will see the kind of representation in the Secretariat, you will be surprised that this communal G.O. has not had proper effect. In this Government Secretariat, more than 50 per cent or very nearly 50 per cent of them belong to advanced communities. In the Public Works Accounts Department, I do not know what exactly has happened; in fact a very huge majority of one particular community, the forward community is represented; in the Director of Public Instruction Office, more than 33½ per cent belong to advanced community; in the Principal Information Office, somehow or other, it is more than 58 per cent; in the Director of Medical Services, it is more than 40 per cent; in the Inspector General of Prisons it is 33½ per cent; in the Registrar of Co-operative Societies' Office, it is 33 1/3 per cent; I am giving these figures not with a view to saying that the Brahmin Community must be suppressed and that they should not be given representation. If a communal G.O. is calculated to give appointments to the members of the backward communities in proportion to their population, in proportion to their strength, what has this order done? Has it fulfilled the purpose for which it was passed?

Sri T. MARIAPPA (Minister for Finance).—How old is the G.O.?

Sri J. B. MALLARADHYA.—How old is this communal proportion which is being enforced in this State? For how long this order is working? What were all the orders that came into existence subsequent to the Miller Committee's Report? What is the position of the Backward Communities today? Is it just to soften agitation from a few classes that you passed this order from time to time? I am one of those who worked this order for a period of five years.

A MEMBER.—Is it a G.O. for reservation or communal G.O.?

Sri J. B. MALLARADHYA.—It is a G.O. for reservation of backward

communities. Why do you call it communal G.O.? Call it by whatever name, it is a thing which smells badly.

12-30 P.M.

This order of 13th May 1959 says that the proportions fixed in para 2 shall apply to the posts to be filled up by promotion by selection from non-Gazetted to Gazetted posts. I ask the question as to why this has not been made applicable to promotions within the non-Gazetted cadre. Nobody seems to have given any thought and attention to it. Anyone can see that for some reason or the other the Superintendent of the Section, the Manager of an Office is more or less a person belonging to a particular community. The Hon'ble the Chief Minister has stated that the communal proportion is prescribed only at the time of recruitment. After all, who is the person who becomes eligible for promotion from the non-Gazetted to the Gazetted cadre? The seniormost man, the man who has got merit. It is stated that once the ratio is applied to recruitment, then the seniormost man will get promotion. Does that happen?

Sri T. MARIAPPA.—That was the case even when you were the Secretary to the Recruitment Board.

Sri J. B. MALLARADHYA.—What is the result of this policy? One particular community would be benefited. Supposing the position is the reverse. Supposing a Lingayat or a Vokkaliga occupied the posts of Superintendents and Managers, would it be tolerated? Would all promotions be given to the Lingayats? Unless this communal ratio is worked in the matter of promotions also, there would be no justice. Why is it that advertisements are made for recruitment of first division clerks through the Public Service Commission? Why are not posts of upper-subordinate divisions and Superintendents advertised? Why should these posts always be filled up by promotion? Whenever vacancies occur, they are advertised. Whenever a chance to promote a non-Gazetted officer comes, Government says merit is the criterion.

Hon'ble the Chief Minister while replying to this question said that it was unnecessary to consult the Public Service Commission. I will quote Article 320 which pertains to this subject:

“The Union Public Service Commission or the State Public Service Commission, as the case may be, shall be consulted –

(a) on all matters relating to methods of recruitment to civil services and for civil posts;

(b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;”

Sri T. MARIAPPA.—It relates to transfers from one cadre to another; not within the cadre.

Sri J. B. MALLARADHYA.—I would like to know if the P.S.C. was consulted before passing this order; if not, why not. There is another matter involved in connection with the consultation of the P.S.C. I would like to invite the attention of the Hon'ble Minister to the Official Memorandum issued by the Chief Secretariat. Its number is SI, II-BLY-58, dated 19th January 1959. This particular order is purported to have been issued under Article 309 of the Constitution. This order is called

“The Mysore Ministerial Services Recruitment Rules of 1951 ”and it is dated 20th May 1958. It says that:

“In exercise of the powers conferred by the provisions to Article 309 of the Constitution of India, the Governor of Mysore in consultation with the Mysore Public Service Commission hereby makes the following rules.”

I would first of all like to know whether the P.S.C. was at all consulted and further if the P.S.C. agreed to Section (2) of the rules which says:

“Promotion to the cadre of Assistants and First Division Clerks and Second Division Clerks in the Mysore Ministerial Services shall be

on the basis of the results of a competitive examination conducted by the Public Service Commission.”

Therefore, I want to know if the P.S.C. has agreed to the holding of such examinations. These rules were made operative with effect from 20th May. I want to know how many times the Legislature met subsequent to that date and why a copy of these rules were not placed on the Table of the House. The proviso to Article 309 reads like this. I know that the State Government has the power to issue rules:

“Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State, to make rules regulating the recruitment, and the conditions of service of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act.”

I am asking why, though it is more than an year, the Government of Mysore has not taken action even to place a copy of these rules on the Table of the House and why no action is taken to bring an appropriate Act before the Legislature. I want to know if, in pursuance of these rules, the Chief Secretary has issued a circular to all the unit officers to invalidate the lists issued by the Public Service Commission. The status of the Public Service Commission is recognised statutorily. They are not subordinate to any office of the Government and they enjoy an independent and recognised status. I want to know whether by an executive fiat, they can be subordinated and the list issued by the P.S.C. can be invalidated by an executive. The Memorandum says that the unit officers need not give any consideration to the lists approved and published by

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the P.S.C. All vacancies are to be treated as temporary and appointment of local candidates made.

SRI T. MARIAPPA.—That refers to that particular list.

SRI J. B. MALLARADHYA.—You may call for the Official Memorandum. I know what it is. I am also informed that the Public Service Commission has most emphatically protested against this kind of treatment and discourtesy shown to a statutorily recognised Commission. A thing like that never happened in any Government and so long as Government do not respect the status, independence of the P.S.C., and Government is not ordinarily guided by the P.S.C. things would not improve. In constituting the P.S.C. Government may make every effort to see that the right type of people are selected, but once the Public Service Commission is duly constituted, Government cannot summarily disregard their existence. Here is a patent instance of disregard, a matter which goes to the detriment of the non-Gazetted community.

When hon'ble the Chief Minister said that it was not necessary to consult the Public Service Commission he seems to seek protection under Section 16 (1) and 16 (4) of the Constitution; 16 (4) states:

“Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.”

Now, here is a perversion of the meaning read in this Section. It is true that if a State Government is satisfied that a particular community in the State is not adequately represented, they can make certain reservations even without consulting the P.S.C. But have they used that section? They have restricted the use of this Article for promotions from the non-Gazetted to Gazetted cadre. That means they have not used the article for promotions within the cadre. Are they then not

obliged to refer the matter to the P.S.C.? Can the Chief Minister take shelter under the provisions of the Constitution? This is no attempt on my part to shut out any community because in the interest of the administration I am not communal minded and I am not coming in the way of the advancement of the forward communities. I see behind the Official Memorandum that there is a move not merely to safeguard the interests of the Brahmins but to act in a manner detrimental to the interests of the backward communities and I cannot be a party to it even remotely. I do not mind if a Brahmin is given promotion legitimately and at the appropriate time and if as a result of promotions the whole office is flooded by Brahmins but so long as the communal order is to circumvent the interests of the backward communities I do not allow it to be done by any Government. Here is an Official Memorandum which offends against the Constitution. You should not interfere with the discretion of the Public Service Commission and you have not shown even the courtesy to place it on the Table of the House. As far back as 1957, the Public Service Commission called for applications on 30th April and 4th June and they got as many as 25,000 applications.

SRI T. MARIAPPA.—For what posts?

SRI J. B. MALLARADHYA.—For the posts of Second Division Clerks, First Division Clerks and they issued lists to various officers and by this Official Memorandum Government have invalidated them from

MR. SPEAKER.—It is time ; Government have to reply.

SRI H. M. CHANNABASAPPA (Minister for Public Works and Electricity).—He does not want a reply from Government, that is my feeling.

SRI J. B. MALLARADHYA.—Government seem to have a feeling that when once you prescribe the communal ratio for recruitment, it is unnecessary to introduce it in the non-Gazetted cadre for promotions. This is a wrong impression. Even if it has not been introduced in the past we have to introduce it now. I can furnish figures to show the dominating element of a

particular community in all the offices and in order to prevent it it is necessary that you should introduce communal ratio even in respect of promotions in the non-Gazetted cadre.

Sri T. MARIAPPA.—Sir, I am indeed glad that this question has been raised on the floor of this House. Unfortunately the Hon'ble Member Sri Mallaradhya carries the impressions of old Mysore State. He forgets that a new Mysore State has been formed and that five units have formed this new State of Mysore. Therefore unless recruitment rules are framed for the new State of Mysore, it would be rather very difficult to adhere to the recruitment rules of old Mysore which were only applicable to the old State.

Sri J. B. MALLARADHYA.—By way of clarification, till new rules are framed are not the rules applicable to the integrated areas still in force?

Sri T. MARIAPPA.—There were no recruitment rules in the integrated areas on the lines advocated by the Hon'ble Member now. In the old Mysore rules, which were not applicable to other areas, there was no reservation of posts for backward communities. Therefore he will see the supreme need for the framing of new rules of recruitment. In fact we have been in correspondence with the Public Service Commission regarding Cadre and Recruitment Rules. We have been trying our best to finalise them very early. As a matter of fact we have finalised the Cadre and Recruitment Rules for 18 departments and for others the matter is before the Cabinet. Till Cadre and Recruitment Rules are framed we have requested the Public Service Commission to permit us to make appointments on an *ad hoc* basis and in some cases we have to do it on a temporary measure because those recruitment rules will not stand before a court of law if writs are filed. Therefore we have taken all precautions and are trying to frame new Cadre and Recruitment Rules by consulting the Public Service Commission. Therefore I refute the suggestion of the Hon'ble Member that we are ignoring the Public Service Commission. In all cases where consultation

was needed we have consulted them and where we have differed we have sent our differences to them and we are trying to forge some acceptable rules for recruitment of candidates. He says that Government is not alive to do social justice. It is not so. When such reservations were in vogue in other areas, we thought over the matter and felt that reservation for backward classes was necessary in the interests of social justice and to the best extent possible we have given them. The public and the House are aware of the way in which we have remedied the situation by having reservation for backward classes who are socially and educationally backward as contemplated in the articles of the Constitution.

My friend raised a prominent question, namely, that while reservation applies to direct recruitment he wanted reservation to be applied in the case of promotions also. I concede his experience so far as recruitment rules are concerned. In old Mysore he was Secretary of the Recruitment Board and he was told to do social justice in his days. He forgets that in spite of that he was not able to reduce the representation of forward communities. If my memory serves me aright, I recall to his mind that they took 30 years to reduce the 70 per cent of the representation of the advanced community to 36 per cent. Every year they were able to reduce it by one per cent by recruitment. Therefore in old Mysore, after the recommendations of the Miller Committee they introduced reservation so far as recruitment is concerned to do justice to the backward communities but promotions were purely on the basis of seniority except with regard to Amildars' list which was specially prepared with reservation for backward classes. But so far as promotion of Second Division and First Division clerks was concerned, communal proportion was never adhered to except in a few cases where the presiding officers' predilections went in favour of certain candidates. Therefore it is not pertinent to quote examples of old Mysore. We are working in the new Mysore State

Sri J. B. MALLARADHYA.—Was it not in vogue in Raichur or Gulbarga?

Sri T. MARIAPPA.—Whenever there was promotion among non-Gazetted officers, it went by seniority. I could read out one or two instances to point out how we have taken care to see that social justice is done to backward classes. Take the case of General Administration Department which has appeared in the Gazette dated 19th March 1959. I would like to quote with regard to First Grade Sub-Registrars:

“75 per cent by promotion from the cadre of II grade Sub-Registrars and 25 per cent by promotion by selection from the cadre of I Division Clerks . . .”

You will understand that we have introduced direct recruitment to set right inequalities.

Sri J. B. MALLARADHYA.—I want to know the position regarding promotion within the non-Gazetted ranks. I am restricting my attention to promotion within the non-Gazetted ranks, but you are referring to the Gazetted ranks.

Sri T. MARIAPPA.—For the post of Head Clerk the method of recruitment is “by promotion from the cadre of I Division Clerks” and the criterion is purely seniority and merit. As for I Division Clerks, it is “66 2/3 per cent. by direct recruitment on the results of the competitive examination for recruitment to the Mysore Ministerial Service, and 33 1/3 per cent by promotion from the cadre of II Division Clerks of the Department.”

Sri J. B. MALLARADHYA.—Even though it is mentioned that it is to be filled up by direct recruitment, still promotions are going on without any justification. I can quote any number of instances.

Sri T. MARIAPPA.—If any promotions are made they are on a purely temporary measure.

Sri J. B. MALLARADHYA.—Does the Minister mean that the promotions made from 1956 up to now are still temporary? I would like to draw his

attention to Notification dated 18th January 1956 issued in consultation with the Public Service Commission. Have you brought this scheme of examinations into force?

Sri T. MARIAPPA.—I have already said that the Cadre and Recruitment Rules were promulgated only very recently and it will take some time to bring that scheme into force.

For II Division Clerks the method of recruitment is “90 per cent by direct recruitment on the results of the competitive examination . . . and 10 per cent by promotion of Attenders.” Nine per cent has been fixed in order to remove the inequalities as far as possible.

For II Grade Typists, it is wholly by direct recruitment. As regards Foremen, it is “by promotion from the cadre of Counters”. As regards Counters, it is “by promotion from the cadre of Pressmen”. As regards Pressmen, it is “30 per cent by direct recruitment, and 50 per cent by promotion from the cadre of Class IV employees.”

Then coming to the cadre of the Mysore Revenue Appellate Branch, recruitment of I Division Clerks is “66 2/3 per cent by direct recruitment” and “33 1/3 per cent, by promotion from the cadre of II Division Clerks”. As regards II Division Clerks it is “90 per cent by direct recruitment” and “10 per cent by promotion from Class IV officials.”

Coming to the Mysore Jail Service Class III posts, for the posts of Assistant Superintendents we want to introduce the principle of communal ratio and so only 25 per cent is to be recruited by promotion from the cadre of Chief Jailors.

If my friend would only go through these notifications regarding Cadre and Recruitment Rules he will find that we have tried to do justice in the matter of recruitment of II Division Clerks, I Division Clerks, Superintendents and even Accountants. It is no good quoting the old figures of recruitment pertaining to old Mysore. It is true that there are certain very heavy inequalities particularly in the Accounts

Service, but you cannot throw out in the streets the existing personnel. Therefore we have introduced direct recruitment at these levels so that the inequality could be remedied, but it takes time. We have taken almost 30 years to reduce it by 36 per cent in old Mysore in spite of the heroic efforts made by Sri Mallaradhya.

Sri J. B. MALLARADHYA.—Why don't you introduce the element of communal ratio for promotion from within the non-Gazetted cadre? That point is not touched at all. Is it that in the enlarged State of Mysore Head Clerks, Superintendents, Managers, etc., should all belong to one community only?

Sri T. MARIAPPA.—In the case of promotion from non-Gazetted to Gazetted ranks, we have reserved only 8 1/3 per cent when it is made by selection with a view to give representation to the most unrepresented communities, in particular to the Scheduled Castes and the Scheduled Tribes. Normally speaking, we have taken a decision not to introduce this question of reservation in the case of promotions either among the Gazetted ranks or among the non-Gazetted ranks. Nowhere in India is there such a practice. Even in old Mysore such a practice was not there. If this principle is introduced it will create a lot of discontent and nobody can work with any sense of security; efficiency will suffer. Who will work with any heart when his own junior is promoted over and above his head? In the case of promotions from non-Gazetted to Gazetted, we will consult the Public Service Commission and make the selection. This is almost like direct recruitment. Except in this case, in all other cases either among the non-Gazetted cadre or among the Gazetted cadre it is but sheer justice that recruitment should be made on

the basis of seniority and merit. If a person is inefficient he will not be promoted. Only persons with merit and seniority will be promoted. This is the consideration that will prevail in the case of promotions.

Then he raised one other point with regard to the Public Service Commission. He seems to forget that we have got the utmost respect for the opinion of the P.S.C. In certain cases, Government have power to stay a certain decision of the P.S.C. and to have further consultations with them. In fact, we are having further consultation with them in this matter which he raised and I think we will finalise it very early. The Hon'ble Member quoted Articles 309 and 320 of the Constitution. If all these articles are read in proper context he will be able to see that we have been able to adhere to the spirit of the Constitution in regard to reservation for the socially and educationally backward classes, and we entirely agree with him that justice has to be done for these backward classes. Apart from that we cannot introduce any other principle. If we do that it will create anomalies. Moreover this practice is not there in any of the integrated areas or in any other part of India.

1 P.M.

Statistical Statement of Questions, Half-an-hour Discussions, Adjournment Motions, etc.

Mr. SPEAKER.—Before we adjourn I would like to announce the statistical analysis about questions, etc. Yesterday I made an announcement, but today the position can be seen much clearer than yesterday.

Starred Questions

No. of questions tabled	...	...	410
No. of questions admitted and sent to the Government	...	...	363
No. of replies received from Government	...	...	190
No. of questions answered	...	...	171
No. of questions remaining for answer	...	...	19